

# Boston Redevelopment Authority

James E. Cofield, Jr./Board Member

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Document No. 3538  
Submitted at Meeting of 9/29/77

September 28, 1977

The Honorable Kevin H. White  
Mayor of Boston  
Massachusetts  
City Hall  
One City Hall Square  
Boston, Massachusetts 02201

My dear Mayor White:

As you are probably aware, I have been a member of the Boston Redevelopment Authority for a little more than a year and a half. For my own purposes I have recently completed an assessment of the strengths and weaknesses of the Authority and thought it appropriate to formally bring to your attention an issue which continues to be a problem for the Authority. This matter is the issue of governance.

It is my considered opinion that the issue of governance of a public body is a relationship which should never be undermined. Quite to the contrary, given the significance of the decisions which the Authority reaches for and in behalf of the citizens of the City of Boston, it is essential that these decisions be made from the strongest and most objective base possible. It was clearly the intent of the state enablist legislation that the Boston Redevelopment Authority, and other redevelopment authorities, be independent bodies with their members appointed to specific terms as outlined in the statute. The policy which you have followed over the recent years of not appointing or reappointing members to the Authority, but rather leaving appointees in a holdover status, runs counter to the intent of the legislative act creating the Authority. The terms of Mayoral appointees to the Authority expired in 1971, 1972, 1973 and 1974, and the continuance of the present status of these members violates the doctrine of reasonableness and the independence of the Boston Redevelopment Authority.

It is my understanding that you have relied on a portion of Section 5 of Chapter 121B of the Massachusetts General Laws to bring you to your present position. That part of Section 5 provides that, "...Every member, unless sooner removed, shall serve until the qualification of his successor..." I suggest that periods of reasonable holdovers may sometimes be in the public interest to prevent the interruption of certain business activity. However, I would offer that the periods of holdover under question here are unreasonable and not in the public interest. Section 5 of the same statute provides, "...as the term of a member of any housing or redevelopment authority expires, his successor shall be appointed or elected, in the same manner and by the same body, for a term of five years from such expiration..."



September 28, 1977

Furthermore, in two Massachusetts cases, Warner v. Selectman of Amherst, 326 Mass. 435, 439 (1950) and Campbell v. Boston 337 Mass. 676, 678 (1958), the Court, in defining what is not reasonable has quoted, with approval, the fundamental doctrine stated in the leading case of State v. Grace, 113 Tenn. 9, 16-17 (1904):

" Official robes cannot be put off and assumed at the pleasure of individuals or officers. Public interest requires that all possible certainty exist in the election of officers and the beginning and expiration of their terms by law or resignation, and forbids that either should be left to the discretion or vacillation of the person holding the office or the officer or body having the appointing power."

Thus in the above referenced case, the public interest is violated if the beginning and expiration of terms of office are left to the discretion of the person having the appointing power. Section 6 of the Massachusetts General Laws provides that a member of the Authority may be removed by the Mayor, only for cause after notice of and a hearing on the charges against the said member. This is further demonstrated in Bunte v. Mayor of Boston, 361 Mass. 71 (1972) where the Court held that a member of the Boston Housing Authority was improperly removed. This matter is germane here since a member of the Authority in a holdover status loses the protection of Section 6 and the independence that is intended to assure, being removeable at any time at the pleasure of the mayor through the appointment of another person as his successor.

Aside from the clearly legal interpretation of the enabling legislation, I submit that the public interest requires that you appoint members to specific terms and insure that the Authority be maintained as an independent body. The very nature of development decisions suggest that they be based on long term considerations and that they not be compromised by short term objectives, whether political or otherwise. Additionally, it is vital that the public perception of the Authority be that of a body whose decisions are based on development criteria, reason and merit, and that those decisions cannot be influenced by political persuasion, either direct or indirect. Furthermore, it is fundamentally important that the Authority be composed of members who can make a substantial contribution to the business affairs of the Corporation.

Lastly, the role of the Boston Redevelopment Authority demands that it work in partnership with your office and administrative departments in your administration. To that end, I submit that the most productive way for the Authority to carry out its urban renewal, development, research and planning tasks is to be governed by a duly constituted Board and to maintain a staff of highly talented and well motivated individuals. An Authority that meets this test is extremely effective and serves the citizens of Boston and it's mayor. Needless to say, if the foregoing occurs, there is little need for your office to be concerned about maintaining control over the Authority's activities.

In summary, it is clear that the present structure of the Boston Redevelopment Authority violates the public interest and runs counter to the intent of the enabling legislation. Holdover periods of the type here are completely unreasonable

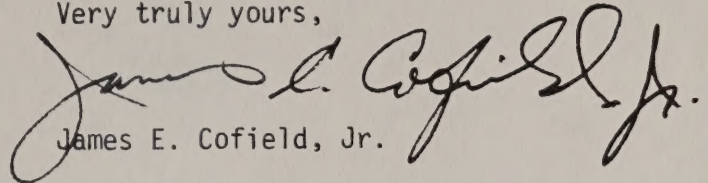


The Honorable Kevin H. White  
Mayor of Boston  
Page 3.

September 28, 1977

and severely jeopardize the independence and undermine the confidence of this much needed body. Thus I suggest that you reassess your policy with respect to holdovers and take action in the immediate future to redress this violation of law. The public interest requires it.

Very truly yours,

A handwritten signature in dark ink, appearing to read "James E. Cofield, Jr.", written in a cursive style.

James E. Cofield, Jr.

JEC/je

cc: Mr. Robert L. Farrell

